

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE
WRIT PETITION NO. 5342 OF 2006

Shri Bhupendra D. Maniar ..Petitioner

Vs.

Rakesh Rohit Maniar & Ors. ..Respondents

Ms. Manisha Virkhare h/f Mr. Bhavesh Parmar for
petitioner.

Mr. P.M. Patel for respondent no.1.

CORAM: B.H. MARLAPALLE, J.

Date : September 01, 2006.

P.C.:

1. Reference (IDA) No.205 of 1998 was decided on 21/4/2004 and the respondent-employer filed Misc. Application (IDA) No.22 of 2005 but belatedly for restoration. Misc.Application (IDA) No.14 of 2004 was filed for condonation of delay and the same was allowed by the order dated 5/3/2005 by the learned Judge of the 11th Labour Court at Mumbai. Misc. (IDA) No.22 of 2005 also came to be allowed by the order dated 5/5/2006 and thus the reference has been restored by setting aside the award dated 21/4/2004 but subject to the condition of depositing of Rs.1,00,000/- towards the legal dues and an additional

amount of Rs.5000/- by way of costs.

2. It appears that in the reference, the employer had appeared, filed Written Statement and also participated in the trial of the reference when the recording of oral evidence had commenced. Subsequently, nobody appeared on behalf of the employer till the award was passed on 21/4/2004. It is, therefore, doubtful whether the said award could be in fact and in law called as an ex parte award.

3. Be that as it may, now that the reference has been restored and nothing stops the petitioner-workman from challenging the impugned orders as well in case the reference is decided against him and rather than entertaining this petition at this stage, it would be in the interest of both the parties that the restored reference is decided within a fixed period.

4. Hence it is directed that the Reference (IDA) No.205 of 1998 be heard and decided by 31st October, 2006 and either of the parties will not seek adjournment. It is made clear that in case the reference is not decided by 31st October, 2006 for the

:3:

reasons attributable to the employer, an amount of Rs.1000/- per month towards the subsistence allowance shall be paid to the workman till the reference is decided afresh. Parties to appear before the 11th Labour Court on 7/9/2006.

5. Petition disposed off accordingly.

6. Writ to go to the Labour Court forthwith.

(B.H. Marlapalle,J.)